

2013 WL 420176 (Ga.Super.) (Trial Pleading)
Superior Court of Georgia.
Cobb County

Camille SHEPPARD, Plaintiff,

v.

WELLS FARGO BANK, National Association (Inc.) and Dennis Christie, Defendant.

No. 13-1-01018-53.
February 1, 2013.

Complaint

Cochran & Edwards, LLC, [R. Randy Edwards](#), Georgia Bar No. 241525, [Paul A. Piland](#), Georgia Bar No. 558748, Attorneys for Plaintiff, Camille Sheppard, 2950 Atlanta Road SE, Smyrna, Georgia 30080-3655, 770-435-2131, 770-436-6877 (fax), randy@cochranedwardslaw.com, paul@cochranedwardslaw.com.

Comes Now Plaintiff Camille Sheppard and files this Complaint against Defendants Wells Fargo Bank, National Association (Inc.) (hereinafter "Wells Fargo") and Dennis Christie. In support hereof, Plaintiff shows unto the Court the following:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Camille Sheppard is over the age of eighteen (18) years-old and is a resident of the State of Georgia.
2. Defendant Wells Fargo is a South Dakota corporation authorized to conduct business in the State of Georgia. Defendant Wells Fargo may be served with process by delivering Summons and a copy of this Complaint to the office of its registered agent, Corporation Service Company, located at 40 Technology Parkway South, Norcross, Georgia 30092.
3. Defendant Christie is over the age of eighteen (18) years-old, is a resident of the State of Georgia, and may be served with process by delivering Summons and a copy of this Complaint to his regular place of employment located at 2201 Roswell Road, Marietta, Georgia 30062.
4. Jurisdiction and venue are proper in this Court.

FACTUAL AVERMENTS

5. Plaintiff restates and incorporates by reference the preceding Paragraphs as if fully set forth herein.
6. On or about December 15, 2006. Plaintiff, at the direction of representatives of Wachovia Bank, was granted power of attorney to manage her mother's finances. This included reasonable access to her mother's financial accounts.
7. Said Power of Attorney was on file at Wachovia prior to its acquisition by Wells Fargo.
8. On or about February 13, 2010, Plaintiff's mother, Jeanette Towsley, was admitted to the long term care facility TLC Family Home located at 3605 Shallowford Road, Marietta, Georgia 30063.

9. In or around February 2012, Mrs. Towsley's health took a turn for the worse. At this time, Mrs. Towsley was heavily sedated and remained in a medically induced comatose state.

10. Representatives of TLC Family Home informed Plaintiff that it would no longer be able to provide the level of care Mrs. Towsley required if she did not wake up within two weeks. Plaintiff discussed the health care options for her mother with TLC Family Home. On Friday, February 24, 2012, Plaintiff and TLC Family Home agreed that hospice end of life care was the most viable option for Mrs. Towsley's.

11. Based on information provided to Plaintiff by TLC Family Home, Plaintiff understood that her mother, Mrs. Towsley, would not be eligible for continued hospice care if she woke up over the weekend of February 25-27, and had more than \$5,000.00 in her checking account.

12. Plaintiff, who had been managing her mother's finances for several years, understood that Mrs. Towsley had approximately \$10,000.00 in her checking account.

13. On February 24, 2012, while her mother was being transitioned into hospice,

14. Plaintiff, accompanied by Matteo Valles, visited the East Lake branch of Wells Fargo located at 2201 Roswell Road, Marietta, Georgia 30062 (the "Branch") for the purpose of transferring approximately \$5,000.00 from her mother's checking account to get the balance down to slightly less than \$5,000.

15. Upon her arrival at the East Lake branch of Wells Fargo, Plaintiff was met by the assistant branch manager, Defendant Dennis Christie. After explaining the situation to Defendant Christie, to wit, that she was moving her mother into hospice and needed to have her balance below \$5,000 in the event she woke up over the weekend, Plaintiff attempted to deposit a check drawn on her mother's account and made payable to her.

16. Defendant Christie, however, refused to accept Plaintiff's deposit on the grounds that the signature on the check did not match the signature on file.

17. Plaintiff then informed the teller and Defendant Christie that, at the direction of Bank, she had been granted power of attorney over her mother's account and that said power of attorney was on file with the Bank. Nevertheless, Defendant Christie still refused Plaintiff's deposit.

18. At that time, Plaintiff, who had maintained a balance of at least \$500,000 in deposits with the Bank for several years, became angry and threatened to close all of her accounts with the Bank. Plaintiff asked Defendant Christie when could she meet with him to close all of her account and to retrieve the roughly \$500,000 balance in her accounts. Defendant Christie responded by saying "9 am Monday morning."

19. On information and belief, Defendant, in retaliation for Plaintiff's threat to close her accounts and withdraw approximately \$500,000 from Wells Fargo, made up a false and malicious report that Plaintiff had abused or exploited her mother, Jeannette Towsley and reported same to the Georgia Department of Human Services, Division of Aging Services, Adult Protective Services ("APS").

20. Far from abusing or exploiting her mother, Plaintiff took great care of her mother, and spent tens of thousands of dollars of her own money subsidizing her mother's care and treatment. A cursory review of Plaintiff's accounts with Wells Fargo would have immediately shown that she had written dozens of checks out of her account to pay medical and other expenses for her mother.

21. On the evening of February 24, 2012, an investigator from APS, visited Plaintiff's residence. Plaintiff, however, was not at home.

22. On or about March 6, 2012, Plaintiff received a telephone call from an APS investigator. The investigator informed Plaintiff that a complaint of **elder abuse** had been made against her. When asked by Plaintiff, the investigator refused to disclose who had made the complaint.

23. During the initial telephone conversation, the investigator demanded access to examine Mrs. Towsley's financial records. The investigator also demanded an interview with Mrs. Towsley. Plaintiff asked what would happen if she refused, and the investigator informed her that she would be arrested immediately.

24. The investigator also demanded to interview Mrs. Towsley at the TLC Family Home. Prior to the APS investigator's interview of Mrs. Towsley, Plaintiff was forced to disclose to the staff at TLC Family Home that she was being investigated for **elder abuse**.

25. On or about March 8, 2012, an APS investigator visited TLC Family Home for the purpose of interviewing Mrs. Towsley and inspecting her financial records.

26. After only a few questions followed by intelligible answers, the APS investigator concluded her interview of Mrs. Towsley. At that time the investigator apologized to Plaintiff, stating that she "was only doing her job" and that "everyone should have a daughter like you."

27. The investigator then informed Plaintiff the investigation was closed, and that since the investigation was closed, she could inform Plaintiff that the complaint against her had been made by Wells Fargo.

28. Defendant Christie did not have reasonable cause to believe that Plaintiff had abused or exploited her mother. Instead, he made up the report in bad faith and with a malicious purpose in order to retaliate against Plaintiff for threatening to close her accounts and withdraw approximately \$500,000 from Wells Fargo.

29. Wells Fargo knew or should have known that Defendant Christie acted in bad faith or with a malicious purpose, and failed to take reasonable and available measures to prevent Defendant Christie from acting in bad faith and with a malicious purpose.

30. As a direct and proximate result of the false report and investigation by APS, Plaintiff has suffered severe embarrassment and emotional distress.

COUNT I--FALSE LIGHT

31. Plaintiff restates and incorporates by reference the preceding Paragraphs as if fully set forth herein.

32. Defendants acted maliciously and in bad faith by knowingly fabricating a fictitious account of **elder abuse**.

33. Defendants published statements to APS depicting Plaintiff as something that she is not. Specifically, Defendants depicted Plaintiff as abusing and/or exploiting her mother for her own personal financial benefit and to the detriment of her mother's interests.

34. Being falsely accused of abusing a family member is highly offensive to a reasonable person.

35. As a direct and proximate result of Defendants' malicious bad faith acts of falsely accusing Plaintiff of **elder abuse**, Plaintiff has suffered embarrassment and damage to reputation.

COUNT II--BREACH OF DUTY

36. Plaintiff restates and incorporates by reference the preceding Paragraphs as if fully set forth herein.

37. Defendant Wells Fargo breached its affirmative duty pursuant to 15 U.S.C. § 6801(a) to protect the security and confidentiality of Plaintiff's nonpublic personal information by disclosing certain information to APS.

38. Pursuant to O.C.G.A. § 51-1-6, Plaintiff is entitled to recover damages for Wells Fargo's breach of its affirmative duty to protect the secrecy and confidentiality of her private personal information.

39. As a direct and proximate result of Defendant Wells Fargo's breach of its duty to Plaintiff to maintain the secrecy of certain private personal information, Plaintiff has suffered embarrassment and damage to her reputation.

COUNT III--SLANDER

40. Plaintiff restates and incorporates by reference the preceding Paragraphs as if fully set forth herein.

41. Defendants knowingly, intentionally, and maliciously did falsely and in bad faith impute the crime of elder abuse to Plaintiff.

42. Defendants knowingly, intentionally, and maliciously published false accusations of elder abuse against Plaintiff through the communication thereof to a third party.

43. At the time of publication, Defendants knew said accusations of elder abuse against Plaintiff to be false.

44. Defendant Christie was expressly directed or authorized to communicate said false accusations of elder abuse against Plaintiff APS by Defendant Wells Fargo.

45. Pursuant to the doctrine of *respondent superior*, Defendant Wells Fargo is liable for the false accusations of elder abuse against Plaintiff communicated to APS by Defendant Christie.

46. Said false accusations of elder abuse against Plaintiff constitute slander and/or slander *per se*.

47. As the direct and proximate result of Defendants' actions, said slanderous statements created an unfavorable impression of Plaintiff in the mind of third parties.

48. As the direct and proximate result of Defendants' actions, Plaintiff has been harmed and has suffered damages.

COUNT IV--LIBEL

49. Plaintiff restates and incorporates by reference the preceding Paragraphs as if fully set forth herein.

50. Defendants did knowingly and intentionally, falsely and maliciously defame Plaintiff through their bad faith filing of a complaint for elder abuse against Plaintiff.

51. Defendants published said defamatory statements through the intentional communication thereof to a third party.

52. Defendant Christie was expressly directed or authorized to communicate said defamatory statements to APS by Defendant Wells Fargo.

53. Pursuant to the doctrine of *respondent superior*, Defendant Wells Fargo is liable for the defamatory statements communicated to APS by Defendant Christie.

54. Said defamatory statements were made in bad faith and with the intent to injure Plaintiff.

55. Said defamatory statements constitute libel for which Plaintiff is entitled to recover damages.

56. As a direct and proximate result of Defendants libelous conduct, Plaintiff has suffered embarrassment and damage to her reputation.

COUNT V--INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

57. Plaintiff restates and incorporates by reference the preceding Paragraphs as if fully set forth herein.

58. Defendants did knowingly and intentionally file a false complaint with APS accusing Plaintiff of **elder abuse**.

59. Defendants' filing of a false complaint of **elder abuse** against Plaintiff was reckless.

60. Defendants' filing of a false complaint of **elder abuse** against Plaintiff is extreme and outrageous.

61. Defendants' filing of a false complaint of **elder abuse** against Plaintiff caused Plaintiff to experience severe emotional distress.

62. Defendants' filing of a false complaint of **elder abuse** against Plaintiff is so extreme in degree as to go beyond all possible bounds of decency.

63. Defendants' filing of a false complaint of **elder abuse** against Plaintiff is regarded as atrocious.

64. Defendants' filing of a false complaint of **elder abuse** against Plaintiff is utterly intolerable in a civilized community.

COUNT VI--PUNITIVE DAMAGES

65. Plaintiff restates and incorporates by reference the preceding Paragraphs as if fully set forth herein.

66. Defendants' actions constitute willful misconduct.

67. Defendants' actions show malice, wantonness, oppression, and that entire want of care which raises the presumption of conscious indifference to the consequences.

68. Defendants acted with the specific intent to humiliate, embarrass and otherwise cause harm to the Plaintiff, thereby authorizing an award of uncapped punitive damages.

WHEREFORE Plaintiff Camille Sheppard prays upon this Court for the following:

(a) Process issue and Defendants be served with Summons and a copy of this Complaint as provided for by law;

(b) This case be tried by a fair and impartial jury;

(c) Plaintiff recover general and special damages in an amount to be determined by the enlightened conscience of an impartial jury;

(d) That substantial, uncapped punitive damages be assessed against defendants in an amount to be determined by the enlightened conscience of an impartial jury to punish them for their conduct and to deter them from repeating the same conduct in the future;

(e) The Court grant Plaintiff any such other and further relief as deemed just and proper.

This 1st day of February, 2013.

COCHRAN & EDWARDS, LLC

<<signature>>

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